



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 18-1296

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING BY BEST DOCTORS, INC.

CG Docket Nos. 02-278, 05-338

Comment Date: January 25, 2019

Reply Comment Date: February 8, 2019

With this Public Notice, we seek comment on a petition for declaratory ruling filed by Best Doctors, Inc.¹ Specifically, the *Petition* asks for clarification that “a request sent to a telephone facsimile machine asking the recipient to verify . . . contact information and operational status . . . for inclusion in a database when the request does not state the commercial availability or quality of property, goods, or services is not an ‘advertisement’ under the Telephone Consumer Protection Act, as modified by the Junk Fax Protection Act (‘TCPA’).”²

We seek comment on this and any other issues raised in the *Petition*.

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document.³ All filings must reference CG Docket Nos. 02-278 and 05-338. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).⁴

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

¹ Petition for Declaratory Ruling filed by Best Doctors, Inc. (filed December 14th, 2018), <https://ecfsapi.fcc.gov/file/1214143237261/Best%20Doctors%20-%20Petition%20for%20Declaratory%20Ruling%20sent%2012-14-18.pdf> (*Petition*).

² *Petition* at i. The TCPA is codified as 47 U.S.C. § 227. The Commission’s implementing rules are codified at 47 CFR § 64.1200. Among other things, the TCPA and our implementing rules prohibit the use of a “telephone facsimile machine, computer, or other device” to send an unsolicited advertisement to a telephone facsimile machine. 47 U.S.C. § 227(b)(1)(C); 47 CFR § 64.1200(a)(4). The TCPA and our implementing rules define “unsolicited advertisement” as “any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.” 47 U.S.C. § 227(a)(5); 47 CFR § 64.1200(f)(15).

³ 47 CFR §§ 1.405, 1.419.

⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

Additional Information. For further information regarding this Notice, please contact Rebecca Hirselj, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at 202-418-7603 or by e-mail to Rebecca.Hirselj@fcc.gov.

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⁵ 47 CFR §§ 1.1200 *et seq.*